

Robert P. Spretnak, Esq. (Bar No. 5135)
Bob@Spretnak.com
LAW OFFICES OF ROBERT P. SPRETNAK
8275 S. Eastern Avenue, Suite 200
Las Vegas, Nevada 89123
Telephone (702) 454-4900
Facsimile (702) 938-1055

Brandon A. Rotbart, Esq., *pro hac vice pending*
rotbart@rotbartlaw.com
FULLER, FULLER & ASSOCIATES, P.A.
12000 Biscayne Boulevard, Suite 502
North Miami, Florida 33181
Telephone (305) 891-5199

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JOHN MEGGS, Individually, :
Plaintiff, :

vs. : Case No. 2:14-cv-1798

MHD VEGAS REALTY CORPORATION, :
a Nevada Corporation, :
Defendant. /:

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF
AND RELATED STATE LAW CLAIMS**

Plaintiff, JOHN MEGGS, Individually, on his behalf and on behalf of all other mobility impaired individuals similarly situated, (sometimes referred to as "Plaintiff"), hereby sues the Defendant, MHD VEGAS REALTY CORPORATION, a Nevada Corporation (sometimes referred to as "Defendant"), for Injunctive Relief, damages, attorney's fees, litigation expenses, and costs pursuant to the Americans with Disabilities Act, 42 U.S.C. § 12181 *et seq.* ("ADA") and the Nevada Revised Statutes 651.070 *et. seq.* ("Nevada ADA" or "NADA") and alleges:

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2 1. Plaintiff, JOHN MEGGS, is an individual residing at 1128 Maynard Drive,
3 Duarete, CA 91010, in the County of Los Angeles.

4
5 2. Defendant's property is Travelodge Las Vegas, located at 2830 Las Vegas
6 Boulevard S., Las Vegas, NV 89109, in the County of Clark.

7
8 3. Venue is properly located in the District of Las Vegas because venue lies in
9 the judicial district of the property situs. The Defendant's property is located in and does
10 business within this judicial district.

11
12 4. Pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343, this Court has been given
13 original jurisdiction over actions which arise from the Defendant's violations of Title III of
14 the Americans with Disabilities Act, 42 U.S.C. § 12181 et seq. See also 28 U.S.C. § 2201
15 and § 2202. Jurisdiction over the state law claims vests with this Court because pending and
16 supplemental jurisdiction is proper pursuant to 28 U.S.C. § 1367.

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19 5. Plaintiff JOHN MEGGS is a California resident, is sui juris, and qualifies as
20 an individual with disabilities as defined by the ADA, being a paraplegic. Mr. Meggs relies
21 on a wheelchair for mobility. JOHN MEGGS has visited the property which form the basis
22 of this lawsuit on numerous occasions and plans to return to the property on March 15, 2015,
23 pursuant to confirmed reservations, if the property is made accessible. Plaintiff John Meggs
24 has encountered architectural barriers at the subject property. The barriers to access at the
25 property have endangered his safety.

1 6. Mr. Megg regularly visits Las Vegas to visit his daughter, who resides in Las
2 Vegas, and to gamble.

3
4 7. Defendant owns, leases, leases to, or operates places of public accommodation
5 as defined by the ADA and the regulations implementing the ADA, 28 CFR 36.201(a) and
6 36.104. Defendant is responsible for complying with the obligations of the ADA. The place
7 of public accommodation that the Defendant owns, operates, leases or leases to is known as
8 Travelodge Las Vegas, located at 2830 Las Vegas Boulevard S., Las Vegas, NV 89109.
9

10
11 8. JOHN MEGGS has a realistic, credible, existing and continuing threat of
12 discrimination from the Defendant's non-compliance with the ADA with respect to this
13 property as described but not necessarily limited to the allegations in paragraph 10 of this
14 complaint. Plaintiff has reasonable grounds to believe that he will continue to be subjected
15 to discrimination in violation of the ADA by the Defendant. JOHN MEGGS desires to visit
16 Travelodge Las Vegas not only to avail himself of the goods and services available at the
17 property but to assure himself that this property is in compliance with the ADA so that he
18 and others similarly situated will have full and equal enjoyment of the property without fear
19 of discrimination.
20

21 9. The Defendant has discriminated against the individual Plaintiff by denying
22 him access to, and full and equal enjoyment of, the goods, services, facilities, privileges,
23 advantages and/or accommodations of the buildings, as prohibited by 42 U.S.C. § 12182 et
24 seq.
25

26 10. The Defendant has discriminated, and is continuing to discriminate, against
27
28

1 the Plaintiff in violation of the ADA by failing to, inter alia, have accessible facilities by
2 January 26, 1992 (or January 26, 1993, if Defendant has 10 or fewer employees and gross
3 receipts of \$500,000 or less). A preliminary inspection of Travelodge Las Vegas has shown
4 that violations exist. These violations that JOHN MEGGS personally encountered at the
5 hotel include, but are not limited to:

6
7 **Parking and Exterior Accessible Route**
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- 9
- 10 a. Plaintiff, John Meggs as a guest of the hotel was effected by a lack of an
11 accessible route from non-compliant accessible parking space to the hotel
12 entrance, violating Section 502 of the 2010 Accessibility Standards.
13 Accessible parking for the hotel lacks accessibility for those in
14 wheelchairs.
- 15
- 16 b. Travelodge fails to provide a safe accessible route for those in
17 wheelchairs at the Passenger Loading Zone, violating Section 503 of the
18 2010 Accessibility Standards. Mr. Meggs was unable to unload freely
19 and safely from his vehicle to check-in.
- 20
- 21 c. The lack of accessible parking provided at Travelodge fails to provide an
22 accessible route to the hotel rooms, violating section 402 of the 2010
23 Accessibility Standards. The lack of accessible route forces Mr. Meggs
24 travel behind cars and into the street.
- 25
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1 d. The exterior accessible route to enter Travelodge is impeded by slopes
2 at the base of the door behind limits, violating Section 404 of the 2010
3 Accessibility Standards.

4
5 e. Curb ramps throughout the hotel are a hazard to those in wheelchairs
6 and are not provided in all areas, violating Section 406 of the 2010
7 Accessibility Standards.

8 **Access to Goods and Services**

9
10 a. Lowered counters for accessible use at check-in at Travelodge is
11 impeded by goods and are not clear for accessible use, violating Section
12 904 of the 2010 Accessibility Standards. Mr. Meggs was impeded by
13 advertisements and signs while checking in.

14
15 b. Travelodge fails to provide desks in the business center with adequate
16 knee clearance, violating Section 306 of the 2010 Accessibility
17 Standards.

18
19 c. Phones and other elements throughout Travelodge are mounted beyond
20 the reach of Mr. Meggs and those in wheelchairs, violating Section 308
21 of the 2010 Accessibility Standards.

22
23 d. Water fountains are not accessible for those in wheelchairs at Travelodge,
24 violating Section 602 of the 2010 Accessibility Standards.

- 1 e. Entering the pool at the Travelodge is impeded by improper door
2 hardware and a lack of maneuvering space, violating Section 404 of the
3 2010 Accessibility Standards.
4

5 **Hotel Guestrooms**
6

- 7 a. Mr. Meggs as a hotel guest of Travelodge was unable to shower due to
8 improperly designed non accessible roll-in showers, violating Section 608.2
9 of the 2010 Accessibility Standards.
10
11 b. Desks in guestrooms fail to provide adequate knee clearance for those in
12 wheelchairs, violating Section 306 of the 2010 Accessibility Standards.
13
14 c. Travelodge provides improper hardware and other essential elements lack
15 accessibility in the guestrooms, violating the 2010 Accessibility Standards.
16
17 d. Restrooms provided in the guestrooms are improperly designed and Mr.
18 Meggs was unable to use the restroom freely and safely, violating Section
19 601 of the 2010 Accessibility Standards.
20

21
22 11. The foregoing violations also violate the 1991 Standards for Accessible
23 Design (ADAAG), and the 2010 Standards for Accessible Design, as adopted by the
24 Department of Justice.
25

26
27 12. The discriminatory violations described in paragraph 10 are not an exclusive
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1 list of the Defendant's ADA violations. Plaintiff requires the inspection of the Defendant's
2 place of public accommodation in order to photograph and measure all of the
3 discriminatory acts violating the ADA and all of the barriers to access. The individual
4 Plaintiff, and all other individuals similarly situated, have been denied access to, and have
5 been denied the benefits of services, programs and activities of the Defendant's buildings
6 and its facilities, and have otherwise been discriminated against and damaged by the
7 Defendant because of the Defendant's ADA violations, as set forth above. The individual
8 Plaintiff and all others similarly situated will continue to suffer such discrimination, injury
9 and damage without the immediate relief provided by the ADA as requested herein. In
10 order to remedy this discriminatory situation, the Plaintiff requires an inspection of the
11 Defendant's places of public accommodation in order to determine all of the areas of non-
12 compliance with the Americans with Disabilities Act.
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17 13. Defendant has discriminated against the individual Plaintiff by denying him
18 access to full and equal enjoyment of the goods, services, facilities, privileges, advantages
19 and/or accommodations of its places of public accommodation or commercial facilities in
20 violation of 42 U.S.C. § 12181 et seq. and 28 CFR 36.302 et seq. Furthermore, the
21 Defendant continues to discriminate against the Plaintiff, and all those similarly situated by
22 failing to make reasonable modifications in policies, practices or procedures, when such
23 modifications are necessary to afford all offered goods, services, facilities, privileges,
24 advantages or accommodations to individuals with disabilities; and by failing to take such
25 efforts that may be necessary to ensure that no individual with a disability is excluded,
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1 denied services, segregated or otherwise treated differently than other individuals because
2 of the absence of auxiliary aids and services.

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4 14. Plaintiff is without adequate remedy at law and is suffering irreparable harm.
5 Considering the balance of hardships between the Plaintiff and Defendant, a remedy in
6 equity is warranted. Furthermore, the public interest would not be disserved by a permanent
7 injunction.
8

9
10 15. Plaintiff has retained the undersigned counsel and is entitled to recover
11 attorney's fees, costs and litigation expenses from the Defendant pursuant to 42 U.S.C. §
12 12205 and 28 CFR 36.505.
13

14
15 16. Defendant is required to remove the existing architectural barriers to the
16 physically disabled when such removal is readily achievable for its place of public
17 accommodation that have existed prior to January 26, 1992, 28 CFR 36.304(a); in the alternative,
18 if there has been an alteration to Defendant's place of public accommodation since January 26,
19 1992, then the Defendant is required to ensure to the maximum extent feasible, that the altered
20 portions of the facility are readily accessible to and useable by individuals with disabilities,
21 including individuals who use wheelchairs, 28 CFR 36.402; and finally, if the Defendant's
22 facility is one which was designed and constructed for first occupancy subsequent to January 26,
23 1993, as defined in 28 CFR 36.401, then the Defendant's facility must be readily accessible to
24 and useable by individuals with disabilities as defined by the ADA.
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17. Notice to Defendant is not required as a result of the Defendant's failure to cure the violations by January 26, 1992 (or January 26, 1993, if Defendant has 10 or fewer employees and gross receipts of \$500,000 or less). All other conditions precedent have been met by Plaintiff or waived by the Defendant.

18. Pursuant to 42 U.S.C. § 12188, this Court is provided with authority to grant Plaintiff Injunctive Relief, including an order to require the Defendant to alter Travelodge Las Vegas to make the facilities readily accessible and useable to the Plaintiff and all other persons with disabilities as defined by the ADA; or by closing the facility until such time as the Defendant cures its violations of the ADA.

WHEREFORE, Plaintiff respectfully requests:

a. The Court issue a Declaratory Judgment that determines that the Defendant at the commencement of the subject lawsuit is in violation of Title III of the Americans with Disabilities Act, 42 U.S.C. § 12181 et seq.

b. Injunctive relief against the Defendant including an order to make all readily achievable alterations to the facilities; or to make such facilities readily accessible to and usable by individuals with disabilities to the extent required by the ADA; and to require the Defendant to make reasonable modifications in policies, practices or procedures, when such modifications are necessary to afford all offered goods, services, facilities, privileges, advantages or accommodations to individuals

1 with disabilities; and by failing to take such steps that may be necessary to ensure that
2 no individual with a disability is excluded, denied services, segregated or otherwise
3 treated differently than other individuals because of the absence of auxiliary aids and
4 services.

5
6 c. An award of attorney's fees, costs and litigation expenses pursuant
7 to 42 U.S.C. § 12205.
8

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10 d. Such other relief as the Court deems just and proper, and/or is
11 allowable under Title III of the Americans with Disabilities Act.
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13
14 **COUNT II**
15 **VIOLATION OF THE NEVADA LAW**
16 **AGAINST DISCRIMINATION - Nevada ADA**
17 **(violation of Nevada Revised Statutes 651.070 et seq.**
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20 19. The Plaintiff repeats the foregoing allegations as if they were expressly stated
21 herein.
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24 20. The doctrine of pendent and supplemental jurisdiction is proper under 28 U.S.C.
25 §1367.
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27 21. Defendant withheld, denied, deprived and/or attempted to withhold, deny or
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deprive the Plaintiff the rights and privileges secured to him by NRS 651.070, et seq.

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2
3 22. Pursuant to NRS 651.070, the Plaintiff was and is entitled to the full and equal
4 enjoyment of the facilities and accommodations of any place of public accommodation,
5 including the premises, goods and services of the Defendant, without discrimination or
6 segregation based on his disability.
7

8
9 23. Defendant's actions were in violation of a legal duty owed to the individual
10 Plaintiff.
11

12 24. Defendant is and was required to comply with the dictates of the Federal and state
13 laws which forbid discriminatory policies, practices and facilities, including but not limited
14 to architectural barriers.
15

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17 25. The Plaintiff suffered injury to his dignity, mental anguish and humiliation, and
18 other injuries, which were proximately caused by the Defendant's acts and failures to act.
19
20

21 **WHEREFORE**, Plaintiff respectfully requests:

22 a. The Court issue a Declaratory Judgment that determines that the
23 Defendant, at the commencement of the subject lawsuit, is in violation of Nevada
24 Revised Statutes 651.070, et seq.
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26
27 b. Injunctive relief against the Defendant including an order to
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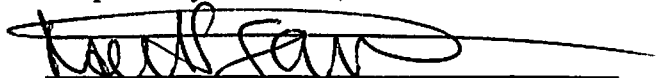
1 make all readily achievable alterations to the facilities; or to make such facilities
2 readily accessible to and usable by individuals with disabilities to the extent
3 required by the ADA; and to require the Defendant to make reasonable
4 modifications in policies, practices or procedures, when such modifications are
5 necessary to afford all offered goods, services, facilities, privileges, advantages or
6 accommodations to individuals with disabilities; and by failing to take such steps
7 that may be necessary to ensure that no individual with a disability is excluded,
8 denied services, segregated or otherwise treated differently than other individuals
9 because of the absence of auxiliary aids and services.
10

- 11
- 12 c. Award compensatory damages to Plaintiff, JOHN MEGGS.
- 13
- 14
- 15 d. An award of attorneys' fees, costs and litigation expenses.
- 16
- 17 e. The Court award such other and further relief as it deems necessary.
- 18
- 19
- 20

21

22 Date: 10/20/2014

23 Respectfully submitted,

24 

25 Robert P. Spretnak, Esq. - NV Bar No. 5135

26 Bob@Spretnak.com

27 THE LAW OFFICES OF ROBERT P. SPRETNAK

28 Co-Counsel for Plaintiff

8275 S. Eastern Ave., Suite 200

Las Vegas, NV 78123

(702) 454-4900

(702) 938-1055 - Facsimile

-and-

Brandon A. Rotbart, Esq., *pro hac vice pending*
rotbart@rotbartlaw.com

FULLER, FULLER & ASSOCIATES, P.A.

12000 Biscayne Boulevard, Suite 502

North Miami, Florida 33181

Telephone (305) 891-5199

Attorneys for Plaintiff